

Hinds, Royale Anne

From: Hinds, Royale Anne on behalf of ISP.FOIA.Officer
Sent: Thursday, April 11, 2019 8:57 AM
To: 71026-16840403@requests.muckrock.com
Subject: FOIR #19-0934 Response

ILLINOIS STATE POLICE *Office of the Director*

JB Pritzker
Governor

Brendan F. Kelly
Acting Director

RESPONSE to FOIA REQUEST

April 11, 2019

MuckRock News
Mr. Brandon Smith
71026-16840403@requests.muckrock.com

Re: FOIR #19-0934 Response

Dear Mr. Smith:

Thank you for writing the Illinois State Police with your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq.

On April 1, 2019, we received your request for records related to 1. where agency's email is stored 2a. FOIA software or email search in use by agency 2b.vendor manuals/instructions or software for software used by agency to search emails 2c. Complete copies of rules/guidelines/instructions or best practices in use for searching emails/texts for FOIA requests 3.Documents show all of and entirety of agency's contracts with cell/mobile service providers(carriers). Any documents that describe a deletion schedule of text messages sent to/from devices agency provider contract. 4a.Keyword searches of all SMS(text)records sent to/received by all sworn officers on agency issued mobile devices.4b.keyword searches of all emails sent to/received by sworn officers on agency email accts(refer to list at bottom of request for keywords)5a.Documents that show what if any text-based messaging clients or platforms for messaging or instant messaging in use on computers in patrol cars.5b.database that messages crossing the in-car messaging system are stored in. 5d keyword searches of databases containing messages sent/received over the in-car computers instant messaging system (list at bottom) 6.documents that provide evidence of any search your jurisdiction that either the department or the public body has undertaken in the five (5) years prior to the date of request, for racist, race-biased, or white supremacist terminology. Include any searches of text messages, emails or instant messages to/from in-car computers. Seeking documents that show a search of communications to/from groups of officers, ranging up to the entire department, showing date of search, rationale or reason for search, search terms used, name of public official who requested search, total number of officers whose communications were searched, type of communications searched, any summary of result(s) of any search. If no document exists that can be construed as a summary of results, we request the full results of any search. On April 8, 2019, we sent an extension letter advising additional time was needed to respond to your request.

In response to your request for #1, #2A, #2b, and #2c above, a reasonable search for the requested items was conducted: however, the Illinois State Police was unable to locate documents responsive to your request. You may wish to contact the State of Illinois Department of Innovation and Technology (DoIT) for the records you seek.

In response to your request for item #3 above, a reasonable search for the requested items was conducted: however, the Illinois State Police was unable to locate documents responsive to your request. You may wish to contact the State of Illinois Central Management Services (CMS) for the records you seek.

In response to items #5a, #5b, #5d, and #6 above, a reasonable search for the requested items was conducted; however, the Department found no responsive records with the provided search terms.

In response to your requests #4a and #4b, the Illinois State Police Freedom of Information Officer, Erin Davis, is denying as Unduly Burdensome since the burden on the public body outweighs the public interest in the information pursuant to **5 ILCS 140/3(g)**.

This request is unduly burdensome on the public body. Section 3(g) states “[r]equests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public’s interest in the information” A categorical request is patently unduly burdensome to the operation of the public body. *Shehadeh v. Madigan*, 2013 IL App (4th) 120742 (4th Dist. 2013) (finding plaintiff’s FOIA request was patently broad on its face, as it sought any publication or record that would or could be used by any public body to comply with Illinois’s FOIA provisions).

ISP does not have the ability to search SMS (“text”) records. Additionally, ISP does not have the ability to search across the email platform. Each individual email account would have to be searched on a name by name basis. Illinois State Police currently has 1,718 sworn officers. Preparing these records for dissemination would take over 2000 hours for the search time alone. The Illinois State Police Records Division would need to conduct a search for records. In addition to FOIA requests, the Records Division has a great deal of other important work that must be completed that would be impacted. The Records Division Investigative Unit must scan investigative cases, assist investigators and special agents in the field via phone calls and emails, complete case 4-1, 4-3, 4-8 consolidations and corrections, file and retrieve case files from the basement vault and retrieve mail. The Records Division Patrol Unit must process E-Pay crash report requests (150-400 per day), answer phone calls and emails from Troopers, do look ups for other governmental agencies, process other FOIA requests, assist with Reconstruction report requests and citations/ written warnings/over-weights, scan reports, provide assistance with ISP district reports and process the mail for the entire Records Division. The Records Division Confidential Source Coordinator must coordinate the confidential source files, read and retrieve microfilm and complete redactions. Once the research and retrieval of the written records was completed, the Records Division would need to review, redact and compile a summary of the redactions and submit the records to the FOIA Officer.

The FOIA Officer must then review the records for responsiveness and exemptions before providing a final response to you. Important ISP business would suffer if the FOIA Office had to comply with FOIA requests for such a large number of records. In order to properly evaluate whether a request is unduly burdensome, it must be reviewed on its face and in connection with the other burdens imposed on the public body by other FOIA requests. *Id.* (explaining that requiring the Attorney General’s staff to review 9,200 records would impede the staff’s ability to respond to other FOIA requests and perform its other duties in a timely fashion). The FOIA Office would need to exercise careful judgment and expend a tremendous amount of personnel hours to review these documents. The processing time required in requests like this one also greatly delays the processing of other FOIA requests and contributes to the backlog of FOIA requests. As of today’s date, the Illinois State Police has 347 FOIA requests which are being processed. ISP’s FOIA Officer cannot ensure that a reasonable search for responsive records was done, properly review those records for responsiveness and exemptions, and also perform the officer’s other duties under FOIA in a timely fashion. *Shehadeh v. Madigan*, 2013 IL App (4th) 120742 (4th Dist. 2013). The burden on the agency outweighs the public interest in these records. Therefore, I am asking that you narrow your request to something that is more manageable.

You have the right to have the denial of your request reviewed by the Public Access Counselor (PAC) at the Office of the Attorney General (5 ILCS 140/9.5(a)). You can file your Request for Review with the PAC by writing to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: (217) 782-1396
E-mail: publicaccess@atg.state.il.us

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter (5 ILCS 140/9.5(a)). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

You also have the right to seek judicial review of your denial by filing a lawsuit in the State circuit court (5 ILCS 140/11).

Erin Davis

Freedom of Information Officer
801 S. Seventh St., Suite 1000-S
Springfield, Illinois 62703